

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:08-CR-00134-RJC-DSC

USA

v.

HEVERTH ULISES CASTELLON

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ORDER

THIS MATTER is before the Court upon the defendant's Renewed Motion for Resentencing in Absentia, (Doc. No. 1784), which the government does not oppose.

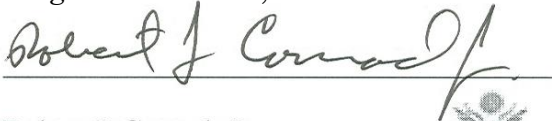
When the defendant appealed this Court's previous denial of sentencing in absentia, the United States Court of Appeals for the Fourth Circuit found that it lacked jurisdiction over the appeal, but expressed "doubt that the district court's ruling is correct." United States v. Castellon, 92 F.4th 540, 542 (4th Cir. 2024) (citing United States v. Lawrence, 248 F.3d 300, 304-05 (4th Cir. 2001) (suggesting that a non-capital defendant can voluntarily waive his right to be present at sentencing)).

IT IS, THEREFORE, ORDERED that the defendant's Renewed Motion for Resentencing in Absentia, (Doc. No. 1784), is **GRANTED in part**. The Court will hold a hearing without the defendant being present on April 12, 2024, at 9:30 a.m. in Courtroom 4A in the Frank G. Johns Wing of the Charles R. Jonas Federal Building and United States Courthouse for determination of whether he knowingly

and intelligently waived his right to be present at sentencing under Federal Rule of Criminal Procedure 43(c)(1)(B). If the Court determines that he did, the Court will immediately proceed to resentencing in absentia.

The Clerk is directed to certify copies of this Order to the Federal Public Defender, the United States Attorney, the United States Probation Office, and the United States Marshals Service.

Signed: March 8, 2024

A handwritten signature in black ink, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

